

LAW OFFICES  
**KIRTLAND & PACKARD**  
LLP

MICHAEL LOUIS KELLY, PARTNER  
mlk@KirtlandPackard.com

January 8, 2016

**Filed via CM/ECF**

Hon. Charles R. Breyer  
United States District Judge  
Northern District of California  
450 Golden Gate Avenue, Dept. 6  
San Francisco, CA 94102

Re: *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, 3:15-md-2672-CRB

Dear Judge Breyer,

I am the senior and managing partner of Kirtland & Packard LLP, a litigation firm with its primary office in Los Angeles and a satellite office in San Francisco. I respectfully apply to be appointed to the **Plaintiffs' Steering Committee** ("PSC") in the above captioned litigation. I represent individual vehicle owners from multiple states and have also filed a class action on behalf of vehicle owners, *Ari Kalan v. Volkswagen Group of America, Inc.*, 3:15-cv-06120, which is an included action in this MDL and seek to represent the same as part of the PSC.

**Summary of Qualifications:** I have been litigating and resolving complex product cases similar in all aspects to the *Volkswagen* case since 1978. In my 36 years with Kirtland & Packard LLP. I have handled cases involving, among many others:

- \* Aircraft defects which grounded entire fleets (client: Teledyne Continental Motors)
  - the Chevron 100LL fuel contamination cases
  - the Teledyne Continental crankshaft recall cases
  - the Teledyne Continental cylinder recall cases
- \* Automobile defects resulting in massive recalls (clients: automobile owners)
  - In re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, MDL 2151
- \* Satellites which became orbiting junk shortly after launch (client: Lloyds of London)
  - Hughes communication satellite cases

I have used my skills as a negotiator to settle these cases where possible, and my skills as a trial lawyer where not.

I have the proven ability to understand, litigate and communicate complex technical subjects and work effectively with experts of many, many disciplines, as will be required in the Volkswagen case.

**Reply to Los Angeles Office**

LOS ANGELES 2041 Rosecrans Avenue, Third Floor • El Segundo, California 90245 v 310.536.1000 f 310.536.1001  
SAN FRANCISCO One Sansome Street, Suite 3500 • San Francisco, California 94101 v 415.946.8946 f 415.946.8801  
www.kirtlandpackard.com

I have handled cases where it was necessary to work with or around United States Attorneys or State Attorney Generals prosecuting the same case. *In re: Unumprovident Corp. Securities, Derivative & ERISA Litigation*, MDL 1552, and *The Great Escape Promotion Cases*, JCCP 4343.

The Volkswagen case will require a combination of all these skills to reach a timely, adequate and just resolution.

**MDL and Complex Litigation Experience:** Kirtland & Packard is a litigation firm established in 1932, and has been involved in MDL proceedings since MDL 13 in 1967. Of the 23 MDL Proceedings the firm has been involved in, the one probably most relevant to this litigation was *In re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, where I served as a member of the Economic Loss Lead Counsel Committee, and where I was one of only a very few lawyers chosen by Judge Selna who was not part of a packaged “slate” presented by Temporary Lead Counsel. That case involved complex technical issues, a very detailed and laboriously negotiated settlement, and many-pronged relief totaling \$1.6 billion dollars was obtained for the class.

**Recent MDL/complex litigation cases in which I have acted in a leadership position and contact information for Judges I have appeared before are as follows:**

Case	Position	Judge and Contact Information
<i>In re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation</i> , MDL-2151	Member of the lead counsel committee	Hon. James V. Selna USDC CD Cal., Crtrm 10C 411 W. 4th St.; Santa Ana, CA Phone Number: 714-338-2848
<i>In re: Pom Wonderful LLC Marketing and Sales Practices Litigation</i> , MDL-2199	Sole lead counsel	Hon. Dean D. Pregerson USDC CD Cal., Crtrm 3 312 N. Spring St.; Los Angeles, CA Phone Number: 213-894-3913
<i>In re Cymbalta Withdrawal Cases</i> , JCCP No. 4825	Co-lead counsel	Hon. Jane L. Johnson Los Angeles Superior Court CCW Dept. 308 600 S. Commonwealth Ave.; Los Angeles, CA Phone Number: 213-351-7508
<i>The Great Escape Promotion Cases</i> , JCCP 4343	Co-lead counsel	Carl J. West (Retired 1-27-12; now at JAMS) 555 W. 5th St.; 32nd Floor; Los Angeles, CA Phone Number: 213-620-1133 cwest@jamsadr.com

**Willingness to immediately commit to time consuming litigation:** I and my firm are willing and able to immediately commit the necessary time and resources to the prosecution of this matter. I have no other commitments which would prevent me from making this case my top priority.

**Willingness and ability to work cooperatively with other plaintiff’s counsel and defense counsel:** I pride myself on my ability to aggressively litigate any case, in a professional and respectful manner. My reputation within the complex, class action, and mass tort bar is something I am very proud of, and which I have earned over the years by being respectful of others’ ideas, contributions, and efforts, whether they are in each instance incorporated into the case or not.

**Access to resources to prosecute the litigation in a timely manner:** Kirtland & Packard LLP has more than adequate resources, both in terms of financial ability and legal manpower, to be a strong contributor to the success of this litigation.

I am supported by attorneys with advanced degrees and broad experience in mechanical engineering, circuit design, embedded systems, and computer science as well as specialization and experience in the discovery of electronically stored information in complex cases. These attorneys have been invaluable in helping with technical discovery in cases where I have been appointed to leadership, such as in the Toyota litigation, as well as being appointed to significant positions in their own right, such as recently being appointed to the PSC as co-chair of the ESI committee in the *In re: Benicar (Olmesartan) Products Liability Litigation*, MDL 2606, in the District of New Jersey.

Kirtland & Packard LLP invests millions of dollars in funding class, mass and other product liability cases, and stands prepared to do so, as necessary, in this case.

**Specific plaintiff representation:** I would be prepared to represent individual owners of affected vehicles, and with my practice in California, I would anticipate a very large number of those plaintiffs would reside in our state. In fact, in the Toyota litigation, I served as representative of California Toyota owners in the allocation of settlement funds based on the relative comparisons of states' consumer laws. I would, however, also be prepared to assist Lead Counsel in any way they determined would be productive to a successful prosecution of these claims.

**Other Relevant Information:** There are two additional things I would respectively request this Court consider regarding my application for appointment.

For approximately the first half of my 36 year career, I managed world-wide litigation for Teledyne Continental Motors aircraft products, and co-managed nation-wide litigation for Airbus GIE. In this role I managed for defendants all aspects of massive product defect suits, massive product recalls and massive economic damages arising out of these claims. This particular background has proven invaluable in managing these same types of problems from the plaintiffs' side, and given me the ability to work with the particular concerns and limitations faced by defendants in resolving these types of complex claims.

Secondly, this case is like no other. It involves a gigantic fraud on regulators, dealers, consumers, as well as the general public. There is no "quick fix" to be had. Compensation and redress will be a complicated and time consuming, highly contested concept. It will take imagination, perseverance, and persistence to resolve it. Without overindulging in self-promotion, these are all things I think I can bring to this litigation.

Neither I nor my firm has attempted to include ourselves on any negotiated "slate" or "structure" of counsel and has neither made nor received any promises of work or participation in this case.

Respectfully Submitted,  
**KIRTLAND & PACKARD LLP**

By: /s/ Michael Louis Kelly  
MICHAEL LOUIS KELLY